

Message

From: Fugh, Justina [Fugh.Justina@epa.gov]
Sent: 10/29/2020 10:27:02 PM
To: Payne, James (Jim) [payne.james@epa.gov]
CC: Askew, Wendel [Askew.Wendel@epa.gov]
Subject: RE: potential transition team's MOU on access to employees, facilities and documents

Thanks, Jim.

The transition team members may not be EPA employees, so I won't have to advise them on federal ethics issues. That said, at paragraph 12, the MOU references 'government employees' and reminds us that we may not misuse our positions by sharing nonpublic information. The MOU provides an incorrect citation (it says "5 CFR 2640, which is for conflicting financial interests, instead of 5 CFR 2635.703, use of nonpublic information.

Seems to me that you should include Wendy Blake for the information law perspective, though.
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Payne, James (Jim) <payne.james@epa.gov>
Sent: Thursday, October 29, 2020 3:11 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Askew, Wendel <Askew.Wendel@epa.gov>
Subject: FW: potential transition team's MOU on access to employees, facilities and documents

Wes Carpenter said that this MOU w potential transition team is close hold. It includes ethics provisions. Let's touch base.

From: Payne, James (Jim)
Sent: Tuesday, October 27, 2020 7:01 PM
To: Packard, Elise <Packard.Elise@epa.gov>; Blake, Wendy <Blake.Wendy@epa.gov>
Cc: Askew, Wendel <Askew.Wendel@epa.gov>
Subject: Fwd: potential transition team's MOU on access to employees, facilities and documents

This is the potential transition team MOU on access, dated 9/30/2020. It does not appear to be publicly released, based on initial on-line searches.

An earlier potential transition team MOU on facility space has been released.

Sent from my iPhone

Begin forwarded message:

From: "Carpenter, Wesley" <Carpenter.Wesley@epa.gov>

Date: October 27, 2020 at 5:52:50 PM EDT

To: "Payne, James (Jim)" <payne.james@epa.gov>

Cc: "Askew, Wendel" <Askew.Wendel@epa.gov>

Subject: RE: potential transition team's MOU on access to employees, facilities and documents

Jim:

Good evening. I participated in an agency transition director meeting earlier today with OMB/OPM/GSA. OMB/OPM/GSA provided an update on the latest with the transition activities, including discussing the attached MOU signed by the President's Chief of Staff and the Chair of the Biden Transition Team. The MOU covers Transition Procedures, Identification of Transition Contacts, and access to non-public government and transition information. I am sharing the MOU per your request and for situational awareness purposes. I have also shared it with Doug, Henry and Mandy. Typically, supplemental guidance or implementing instructions are provided with the MOU; however, OMB/OPM/GSA are not releasing the guidance or instructions at this time. If and when they do, I will share it with you. In the interim, please let me know if you have any questions or need additional information. Thanks.

Wes

Per your request, I have attached the MOU signed between the President's Chief of Staff and the Chair of the Biden Transition Team.

From: Payne, James (Jim) <payne.james@epa.gov>

Sent: Sunday, October 18, 2020 1:07 PM

To: Carpenter, Wesley <Carpenter.Wesley@epa.gov>

Cc: Askew, Wendel <Askew.Wendel@epa.gov>

Subject: potential transition team's MOU on access to employees, facilities and documents

Hi Wes,

Do we know whether the potential transition team has entered into an MOU on access to agency employees, facilities and documents?

The 9/4/2020 OMB memo indicated that this MOU will be coming in advance of the election. I believe the Presidential Transition Act provides for these MOUs, usually by Oct 1. This MOU presumably would guide agency interactions with transition "Agency Review Teams" that could begin contacting agencies on Nov 4, if there is a Presidential transition.

I'm aware of the potential transition team's separate 9/3/2020 MOU w GSA for office space and equipment.

Trump transition team's 2016 access MOU is at link below.

Jim

202-672-3727 cell

<https://presidentialtransition.org/wp-content/uploads/sites/6/2016/11/2913a11c367791bc5cbe730d7893c777-1490911271.pdf>

